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A DIVISIVE ISSUE, FREEDOM OF CHOICE.

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PRESENTED ARE TWO SEPARATE ARTICLES, ONE CRITICIZING AND THE OTHER DEFENDING THE EFFECTIVENESS OF THE FREEDOM OF CHOICE SCHOOL DESEGREGATION PLAN IN THE SOUTH. ACCORDING TO THIS PLAN, PUPILS (OR THEIR PARENTS) MAY CHOOSE THE SCHOOLS THEY WISH TO ATTEND WITHIN A GIVEN DISTRICT. IN THE ARTICLE AGAINST THE PLAN, IT IS ARGUED THAT PSYCHOLOGICAL AND SOCIAL RESTRAINTS MAKE THE SOUTHERN NEGRO'S "FREEDOM" THE FREEDOM TO RISK SOCIAL ISOLATION AND ACADEMIC FAILURE AND THE FREEDOM TO BE DENIED EDUCATIONAL EQUALITY. IT IS FURTHER ARGUED THAT THIS METHOD, WHILE GIVING TOKEN COMPLIANCE WITH THE DESEGREGATION ORDER, ACTUALLY PRESERVES THE STATUS QUO AND ENCOURAGES RESEGREGATION. THE SECOND ARTICLE SUGGESTS THAT A FREEDOM OF CHOICE PLAN NEEDS TIME TO OPERATE EFFECTIVELY, BUT WILL RESULT IN TOTALLY INTEGRATED SCHOOLS. IT IS FELT THAT THE OBLIGATION OF THE SCHOOL SYSTEM IS TO ALLOW A FREE CHOICE TO BE MADE BY ALL, AND THAT THE INTRODUCTION OF A QUOTA PLAN WOULD DENY THE NEGRO HIS DEMOCRATIC RIGHT TO CHOOSE. THIS ARTICLE WAS PUBLISHED IN THE "SOUTHERN EDUCATION REPORT," VOLUME 3, NUMBER 6, JANUARY-FEBRUARY 1968. (DK)

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A DIVISIVE ISSUE

Freedom of Choice

Freedom of choice—under which children, or their parents, choose the schools they will attend within a given district—has been the method most widely used by Southern school districts for compliance with school desegregation orders. The Department of Health, Education and Welfare and the federal courts have approved freedom of choice as a method of desegregation provided it operates "effectively and fairly," that is, when "substantial desegregation actually occurs under a free choice plan." Freedom of choice has been criticized on the ground that many choices exercised by Negroes in the South are not truly free, and defended on the ground that the concept is consistent with liberty in a democracy. In the two articles that follow, two South Carolinians discuss pros and cons of the issue. Criticizing the concept is M. Hayes Mizell, director of the South Carolina Community Relations Program of the American Friends Service Committee. Mizell, a native of North Carolina, is also a consultant to the U.S. Office of Education. Defending freedom of choice is H. Harrison Jenkins, associate editor of the Columbia Record. Jenkins, who was born in Columbia, is a former journalism professor at the University of South Carolina and North Carolina State College. Comments by readers on the issue are invited.

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The South has genuflected and held on to tokenism

By M. Hayes Mizell
(American Friends Service Committee)

In the September 24, 1967, issue of the *New York Times,* Peter Libassi, Director of the Office for Civil Rights of the U.S. Department of Health, Education and Welfare, said: "We had to follow the freedom-of-choice plan to prove its ineffectiveness, and this was the year that it did prove its ineffectiveness."

Those of us who have been dissatisfied with the pace of Southern school desegregation might question Mr. Libassi's logic but we welcome his recognition of reality. We can only hope that this is also the benediction which will bring to a close the South's religious devotion to the freedom-of-choice plan as a device for abolishing the dual school system.

For the past several years, we have observed Southern school districts as they have genuflected in the direction of Title VI of the 1964 Civil Rights Act while, at the same time, utilizing freedom of choice to maintain, with HEW's blessings, tokenism and gradualism.

There are now some indications, however, that HEW is tiring of the South's all-too-deliberate speed and that its disenchantment with freedom of choice will be manifest in future negotiations with individual school districts. But the South has long had an affinity for clinging to those policies and practices which others have cast aside, and it is reasonable to assume that this will also be the case with the freedom-of-choice plan.

In a region whose history has been an anathema to freedom of choice, it has been interesting to observe the conversion of political and educational leaders who now contend that each child has the freedom to choose whichever school he wants to attend. The dual school system, they say, is at an end. Yet, thousands of Negro parents and their children know that the dual school system is still very much a part of Southern education, and in South Carolina alone 93 per cent of the Negro school children are in segregated schools *today.*

Freedom of choice in the Deep South has not brought significant school desegregation to our region simply because it is a policy which has proved to be too fragile to withstand the political and social forces of Southern life. The advocates of freedom of choice assumed that school desegregation would somehow be insulated from these forces while, in reality, it was central to them.

In embracing the freedom-of-choice plan, Southern school systems understood, even if HEW did not, that man's choices are not made within a vacuum, but rather they are influenced by the sum of his history and his culture. They understood that there can be no genuine freedom of choice because the people of the South are not truly free and because our choices are determined more by our pragmatism than by our ideals.

There can be no freedom of choice when such "freedom" is dependent upon the courage, inclination and determination of the Negro citizen to throw off the psychological and social restraints placed upon him by generations of slavery, legally enforced segregation and prejudice. The fear of white power and the threats, either real or imagined, to the Negro's economic and physical security still chain many Negro citizens to those institutions born of servitude and segregation. For the Southern Negro, freedom of choice means the freedom to risk social isolation and academic failure, and the freedom to be denied equality of educational opportunity.

Freedom of choice has proved to be instrumental in permitting the resegregation of schools

Though the overt coercion and intimidation of Negro parents and their children is fading, it is more difficult for them to escape the coercion of their history in this land. Under such conditions, freedom of choice becomes a specious device which achieves only a kind of progressive tokenism and maintains a segregated education for most Negro children.

Freedom of choice is unjust because, as seen by many members of the Negro community, it is merely another device for foisting upon the Negro the burden and responsibility which more properly belongs to the white society. It was the white citizens of the South who created the dual school system, as they did in South Carolina in the 1895 constitution, and Negroes feel that now the primary responsibility for abolishing that system belongs to the school boards which are representative of today's white citizenry.

Freedom of choice has proved to be ineffective because the burden has been primarily on the Negro parents and it is only with their decision to send their children to predominantly white schools that these institutions have been desegregated. School officials must understand that Negro citizens see through the sham of freedom of choice and they feel no obligation to bear this burden which allows school authorities to evade *their* responsibility to abolish the dual school system.

In spite of the inequities of freedom of choice, there are possibly some communities where it will work—particularly in border states. But because the burden of freedom of choice finally comes to rest on the back of the Negro community, this plan can be effective only where school authorities are willing to demonstrate that they are acting in good faith. Unfortunately, many school officials seem to feel that acting in good faith means only the honest administration of a freedom-of-choice period according to HEW guidelines, efforts to eliminate intimidation of Negroes and other overt influences on their choice, and attempts to communicate to the white community that the school district must comply with the law. But the Negro community views these efforts as minimal, and often such gestures are offset by other factors which speak more forcefully of the school officials' deeper attitudes.

Negro parents remain skeptical of school officials' intentions because in their day-to-day lives they continue to see evidence that most white authorities really do not want more than token desegregation. Just as a teacher's unspoken expectation of a child's performance is reflected in that child's actual performance in the classroom, so are school officials' real attitudes on school desegregation often mirrored by the number of transfers from the Negro schools to the desegregated schools. While school authorities may boast of their good-faith efforts to comply with Title VI, the Negro community might observe that the school district is being investigated or cited by HEW for noncompliance. In a school district operating under court order, perhaps it is necessary for Negro parents to take the district back into federal court to liberalize the district's school desegregation plan.

Perhaps Negroes hear rumors of trouble at the desegregated school, that Negroes attending that school cannot participate freely in "privately sponsored" extracurricular activities, and that the barriers of segregation are still manifest in the social isolation their children must endure. They see no Negroes on the district board of education, and they see few, if any, Negroes employed in significant positions on the central office staff. Perhaps the school officials make no effort to communicate consistently with the Negro community and, regrettably, there are still many superintendents and board members who are so insensitive that they have not yet detected the effect of their mispronunciation of the word "Negro."

Under such circumstances, it is no wonder that Negro parents view the "good-faith" efforts of school authorities with cynicism. When an impression of resistance to desegregation prevails, only the most courageous and determined Negroes will make a choice contrary to what they perceive to be the will of the white society.

Freedom of choice is also seen as representative of white society's arrogance concerning the quality of white institutions. The freedom-of-choice plan assumed that Negroes would gladly send their children to the white schools because white schools were, after all, "better." Perhaps it was assumed that Negroes would want to attend desegregated schools simply because they were predominantly white. Whatever the reason, HEW policymakers made no provision for the fact that 70 years of legally enforced segregation had created a conditioned allegiance to the Negro school. During that time, considerable sweat and dedication went into making those Negro schools as good as possible.

Many Negroes are now reluctant to abandon these schools, regardless of their quality, and freedom of choice allows their perpetuation. Some Negro parents even feel that new ESEA programs, new curriculum changes, and renovations of the school plant indicate significant improvements in the Negro school which make desegregation unnecessary.

While freedom of choice has proved not only to be ineffective in getting substantial numbers of Negro students out of the Negro school, it has also demonstrated its inherent racism and bias because it has not gotten white students into Negro schools. Few white parents are yet free from the prejudice and fear of social ostracism which prevents them from choosing to send their children to the "nigger school." Even in those cases where the Negro school is located closer to the white family than is the predominantly white school, these families usually go to any lengths to avoid sending their children to the neighborhood school.

As the U. S. Commission on Civil Rights pointed out in *Racial Isolation in the Public Schools*, Negro schools are still "stigmatized as inferior in the community." There are few whites who will choose to send their children to such schools as long as that stigma remains, and yet it will be removed only when these schools are desegregated. The question of the desegregation of the Negro schools is a matter felt keenly by the Negro community. In many mass meetings I have attended, Negro parents have asked me, "Why don't some white children come over to *our* school?" It is imperative that white teachers, administrators, and pupils soon appear in formerly Negro schools. It is apparent that freedom of choice has failed to demonstrate that it has the strength and viability to desegregate not only the white school but the black school as well.

Freedom of choice has proved to be instrumental in permitting the resegregation of schools. This has been vividly demonstrated in Atlanta, where the racial identification of several schools has changed from predominantly white to predominantly Negro in the course of a few years. There is no reason to believe that resegregation will not also occur in other urban areas of the South as housing patterns shift and as more Negroes attend formerly all-white schools. There are already several schools in South Carolina where this trend may be beginning.

Freedom of choice has also failed in those Southern school districts where the majority of the student enrollment is Negro. There are a large number of these districts in the Deep South but there has been little desegregation in these areas. These "Black Belt" school districts are where the greatest racial animosity exists, where there are the least financial resources to deal with educational problems, and where Negro students see little point in exercising their free choice to transfer to a predominantly white school when the white student population throughout the district is really in the minority.

HEW has not yet come to grips with how these districts can be desegregated, but it is obvious that it will not be done by freedom of choice.

Finally, we must understand that freedom of choice forces Negro parents and their children to make decisions which no parent or child living in a free society should be required to make. For example, should the Negro child choose to attend the predominantly white school when he knows that because of his race it is unlikely that he will receive the leadership recognition he would ordinarily receive in the Negro school? Should the child transfer when he knows that he will be cut off from his contemporaries who remain behind at the Negro school, yet he realizes that any friendships he develops with white children cannot exist beyond the schoolhouse door?

If the child has trouble with his reading, should he transfer to the desegregated school where assistance might not be available to him or should he remain at the Negro school where there is a remedial reading class financed by Title I of ESEA? Should the Negro child choose to transfer to the desegregated school even though he knows that other Negro students there are making lower grades and some have even had to repeat a grade?

For the Negro child and his parents, such decisions are a source of inner conflict. The parents are torn between what they know is academically best for the child and what they fear will be the impact of attending a tokenly desegregated school on his social and emotional development. Some Negro parents, weary of the burden of freedom of choice, merely say, "Oh, I leave it up to my child to decide where he wants to go to school." Too often, the immature choose the easiest way, and that is seldom the desegregated way.

It is clear, then, that freedom of choice will not abolish the South's dual school system. As Judge Wisdom wrote in the decision on the recent U. S. Fifth Circuit Court of Appeals school desegregation cases, "This method [freedom of choice] is better suited than any other to preserve the essentials of the dual school system while giving paper compliance with the duty to desegregate."

I am sure that many educators and political leaders in our region would argue that freedom of choice is desirable because it allows for the "gradualism" that is necessary to acclimate white citizens to desegregation. Yet, we must realize that the racial crisis confronting this nation today is due to the fact that in the past we have been more concerned with the feelings of white society than with the rights of Negro citizens.

I would hope that under HEW's prodding Southern school officials will someday adopt Judge Wisdom's view that "freedom of choice means the maximum amount of freedom and clearly understood choice in a *bona fide* unitary system where schools are not white schools or Negro schools—just schools."

As for now, however, the South has neither the "freedom" nor the "*bona fide* unitary systems" which can give integrity to the freedom-of-choice plan. ○

The obituaries for freedom of choice are premature

By H. Harrison Jenkins
(Associate Editor, Columbia Record)

Students of public-school desegregation in the United States who forecast the demise of freedom of choice are, like Mark Twain's arrant eulogist, premature. They would be well-advised to withhold dispatching funereal flowers, because freedom of choice still breathes.

There are no positive indications that federal enforcement gardeners, who planted freedom of choice as a viable method of compliance with judicial and legislative desegregation law, are likely to rip up the seedling and discard it entirely.

In another context, U. S. Commissioner of Education Harold Howe has said, "We mustn't act like the man who planted a tree and pulls it up by the roots every week to see how it's growing." While freedom-of-choice operations are constantly being re-examined, they have not been torn from the soil and discarded *en masse.*

Freedom of choice is a vibrant, temporary or permanent alternative for school districts throughout the nation which seek in good faith to eliminate, totally, racial discrimination and create a unitary school system. Both idealistically and pragmatically, freedom of choice deserves continuous usage by communities which seek to educate all children equally, without a monomania of addressing themselves to the particular needs of particular groups.

Freedom of choice, to be acceptable, must mean "the unrestricted, uninhibited, unrestrained, unhurried and unharried right to choose where a student will attend public school, subject only to administrative considerations which do not take into account or are not related to considerations of race. If there is a free choice, free in every sense of the word, exercised by students or by their parents, or both, depending on the circumstances, in accordance with a plan fairly and justly administered for the purpose of eliminating segregation," the dual system can justly be said to have been eliminated.

Neither the Fifth Circuit Court *en banc* majority nor federal enforcement officials would agree with the foregoing conclusion. The Fifth Circuit majority asserted that "the only school desegregation plan that meets constitutional standards is one that works." (The opinion echoes Mr. Howe who said in June of 1966 that the first basic requirement for student enrollments in a desegregation plan of any sort was that it "must work.") Somehow, the Fifth Circuit never got around to an incisive definition of what "works," but seemed to indicate that if the percentage of Negro and white children attending a school in a particular community didn't conform to the percentage of Negro and white school population prevalent in the community, the desegregation plan wasn't "working."

Peter Libassi, director of the Office for Civil Rights of the U. S. Department of Health, Education and Welfare, has concluded, also, that "this was the year that it [freedom of choice] did prove its ineffectiveness." His judgment arises from a percentage evaluation.

If the nation (not just the South) is to move toward an effective and enduring resolution of the desegregation of public schools within existing law, it must first recognize the fallacy of selective statistics, the weakness of some quantitative data, the importance of neglected qualitative data, and the impossible idealism of some suggested "solutions."

Federal officials must eschew excessive dependence upon ill-considered percentage evaluations and realize that the progressive mayor of New York City, the late Fiorello La Guardia, wasn't reading comics when he said: "Statistics are like alienists—they will testify for either side." A wise and compassionate Midwestern editor, William Allen White, agreed: "Statistics prove nothing. They are only rocks which ill-natured people throw at one another when they should be doing something better." And the great English prime minister Benjamin Disraeli avoided euphemisms when

he concurred: "There are three kinds of lies: lies, damned lies, and statistics."

From Disraeli's succinct, savory sarcasm, Henry Pratt Fairchild drew the title of an article in *The Unpopular Review* in which he said:

> The reformers of today are thoroughly addicted to the statistical method, have made figures a twentieth century fetish, subject to all the abuses and superstitions which surround fetishes. . . . It would be interesting to study just why an array of figures carries such a convincing weight of authority to the average individual. Probably the basic reason is that in many cases the most scientific of demonstrations take the form of statistical tables, and that only in this way can many propositions be proved. . . . The very complexity and mystery of the tabulations has the same stimulating effect on the credulity of the observer that the grotesque accoutrements of the primitive medicine man have upon the mind of the savage.

Reliance upon quantitative data allows undermanned and underfinanced federal enforcement agencies to "evaluate" progress toward school desegregation with "a convincing weight of authority to the average individual." Time-consuming and energy-absorbing qualitative investigations are, thus, avoided. But emotional conclusions can be, and have been, drawn from the carefully tabulated numbers of Negro and white students attending variously integrated schools in particular districts.

In truth, if a freedom-of-choice plan is absolutely free, the school system is 100 per cent integrated and a unitary system has been established—regardless of the percentages. If this be not true, and if the percentage "guidelines" be zealously pursued to logical conclusion, when is a dual system abolished? When the U. S. Civil Rights Commission suggested that no school, North or South, should have an enrollment more than half Negro and urged Congress to enact legislation to end such "racial isolation," Mr. Howe quickly responded that he "could not endorse" the racial balancing on a percentage basis. He said he could foresee "a great many practical problems about requiring racial balance."

No one seems to be quite sure, incidentally, precisely what is "racial balance" or "imbalance," despite the clear language of Title IV of the Civil Rights Act. It defines "desegregation" in Section 401: " 'Desegregation' means the assignment of students to public schools and within such schools without regard to their race, color, religion or national origin, but 'desegregation' shall not mean the assignment of students to public schools in order to overcome racial imbalance." Perhaps with this definition in mind, the Office of Education's guidelines "nowhere . . . require that there be any particular proportion of Negro and white children in any particular school."

But the phrase "correction of racial imbalance" in the guidelines refers to the busing of children from neighborhood schools, according to Mr. Howe. The Civil Rights Act's definition hinges upon *assignment* rather than transportation.

Can one not conclude that when all children of a district have perfect liberty to choose a school, then all constitutional requirements have been met, that the district is unitary and that the schools—regardless of Negro-white percentages or balances—are "just schools?"

The percentages may very well vary immensely within the chosen district, whether it be Buffalo, New York, or Columbia, South Carolina. One school might be, by free student choice, 100 per cent white; another, 100 per cent Negro; a third, 95 per cent Negro; a fourth, 95 per cent white; a fifth, 65 per cent white; a sixth, 65 per cent Negro; a seventh, an eighth, a ninth and a tenth, approximating 50 per cent. There can be diversity within a unitary system, just as there are diversities in the percentages of Negroes inhabiting our 50 states and our thousands of communities.

Surely the solution in our free, multiracial society is not a redistribution of our Negro minority—espoused for decades by some Southerners and more recently adopted by *Newsweek* magazine in its historic issue of Nov. 20, in which the journal concluded that "so knotty is the problem of making integration work that some thinkers have concluded that a step as drastic as benign quotas in housing, schools and employment may yet become necessary."

Wouldn't most Negroes agree with former light-heavyweight boxing champion Archie Moore, who says: "I do not intend to give up one square inch of America. I'm not going to be told I must live in a restricted area."

In truth, if a freedom-of-choice plan is absolutely free, the school system is 100 per cent integrated

The singularly important factor to remember in an acceptable freedom-of-choice program is that the child or parent has the liberty to make a choice and that the degradation of compulsory attendance at a particular school, solely because of race, is absolutely removed. When a free choice is provided, a school system has acted not merely to correct conditions which were deliberately created by presently unlawful discriminatory procedures (which were legally acceptable until the *Brown* decision), but has acted positively to prevent and eliminate discrimination itself.

Certainly a choice *must* be made by Negro parents and children, but the same choice poses similar intellectual, economic and social problems for white parents and children. The fact of *choice* is a creative element in our society which, in so many areas, has submerged the individual almost to the point of disappearance—pathetically reducing him to a "statistical unit shorn of his unique features."

Although some may bewail the necessity of choice and denigrate the dignity, courage and common sense of the American Negro by assuming that white people must make his choices for him, Samuel Proctor does not share their cowardice. He writes in *The Young Negro in America*:

> The young Negro will have to remain committed to integration and not make a psychological nest inside the Negro world to which he may revert when the going gets rough. He will have to commit himself to competitive participation in every American process and abandon the advantages that accrued to him as he excelled over his weaker Negro competitors within a segregated framework. He must wade into the world of white politics waist high, endure the insults, risk the loss of security, unravel the complicated issues, live with inconclusive answers to problems that defy immediate and obvious simplification and stay in there plugging until he can find his place in the halls of decision and become an integral part of the policy-making bodies of America. He must enroll his children in excellent schools shoulder to shoulder with their white neighbors and require them to exercise their diligence to keep the pace.

Daily life compels each of us to make decisions—some simple; some terribly complicated and vexatious. To deny the Negro parent and child the option of choosing is to deny him the essential freedom that he and his race have sought with an energetic battle-cry, "Freedom, now!"

All parents, regardless of color, select schools for their children with three criteria: (1) convenience, (2) quality of education, and (3) opportunity of success for the child. Convenience is the principal contributing factor in the development of the neighborhood school system in the nation, which is as deeply imbedded in our tradition as the Thanksgiving turkey. Negro student population is not spread uniformly among individual schools in either Northern or Southern systems, mainly because of the operation of the neighborhood school policy in conjunction with the residential concentration of Negroes in some areas. Convenience will remain, under any desegregation plan, an essential ingredient in the educational process.

Quality of education is determined individually by parents and students and may not be in accord with the value judgments of either the educational establishment or the community at large. Performance of the child, or success, is the third determinant in choice of school. Perhaps it is at this point that the nation should give serious consideration to James S. Coleman's observation: "The aim of racial integration of our schools should be recognized as distinct from the aim of providing equal opportunity for educational performance. To confound these two aims impedes the achievement of either."

Equal opportunity for educational performance, woven so often into the judgments of jurists, educators and federal officials, demands considerably more research before definitive answers can be presented with confidence. Coleman avers that the Civil Rights Commission misread his *Equality of Educational Opportunity*, while a New York City report (Professor David J. Fox, director) on busing of Negro children out of Negro neighborhoods to predominantly white schools contradicts the findings of Coleman. Rigidity of thought in "equal opportunity" must be replaced by flexibility of examination.

Nor can the assurances of the Civil Rights Commission that "the goals of equal educational opportunity and equal housing opportunity are inseparable" be accepted without contemplation. The commission shared the feelings of countless other Americans that federally enforced open housing would help disperse the Negro population and enhance the percentages of integration in schools.

Perhaps so. Surely the American Negro is entitled to removal of this vestige of discrimination, but it does not necessarily mean that he will automatically disperse. He will be free to live wherever he chooses, limited only by economic condition. Samuel Lubell, political and social analyst, feels that Negroes, given the choice of where to live, would in the majority "be expected to prefer predominantly Negro areas, where they will feel psychologically comfortable. But for voluntary segregation to be possible, families must first be able to detach themselves from the surroundings they do not like and be able to regroup themselves on a basis of self-respect and dignity."

Self-respect and dignity are the essential elements of the American Dream and they were long denied the American Negro. But ours is not a perfect society, or an imperfect society, of eminently perfectible human beings. We are erasing the stigma of race and we, as a nation, shall not pause in seeking justice for all.

At the same time, we cannot afford to abandon liberty for all in the choice of schools simply because individuals refuse to conform to preconceptions of bureaucrats or courts; or because some school districts abuse freedom as they employ freedom-of-choice plans to evade moral and legal responsibilities. The latter, we can cure with swift and certain justice; the former, we cannot change—for the dread business of life is choice, from dawn to night, from night to dawn. ○